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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

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6 Julien Andrew Sierski,

7 Plaintiff,

8 v.

9 Kilolo Kijakazi,

10 Defendant.

Case No. 2:23-cv-00180-DJA

ORDER

11 Before the Court is Plaintiff Julien Andrew Sierski's application to proceed *in forma*
12 *pauperis* on appeal from the Social Security Commissioner's final decision. (ECF No. 1).

13 Because the Court finds that Plaintiff has demonstrated an inability to prepay fees and costs or
14 give security for them, it grants the application. The Court also finds that Plaintiff's complaint
15 has met the basic requirements to satisfy screening. The Court finds these matters properly
16 resolved without a hearing. LR 78-1.

17 **I. Discussion.**

18 **A. The Court grants Plaintiff's in forma pauperis application.**

19 Plaintiff has submitted the affidavit required by 28 U.S.C. § 1915(a) showing an inability
20 to prepay fees and costs or give security for them. A litigant need not "be absolutely destitute to
21 enjoy the benefits of the [*in forma pauperis*] statute." *Adkins v. E.I. du Pont De Nemours & Co.*,
22 335 U.S. 331, 339 (1948). Plaintiff makes \$1,604 per month, but has monthly expenses totaling
23 \$880, leaving only approximately \$742 left over each month. While Plaintiff's income exceeds
24 expenses, the Court nonetheless finds that the \$402 civil filing fee would impose a hardship on
25 Plaintiff. Based on the financial information provided, the Court finds that Plaintiff is unable to
26 pay an initial partial filing fee and grants the application to proceed *in forma pauperis*.
27
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1 **B. Plaintiff's complaint passes the Court's screening.**

2 Plaintiff's complaint meets the basic requirements to pass screening. When a plaintiff
3 seeks leave to file a civil case *in forma pauperis*, the court will screen the complaint. *See* 28
4 U.S.C. § 1915(e). For social security appeals, judges in this district consider four requirements
5 for complaints to satisfy screening. *See, e.g., Graves v. Colvin*, 2015 WL 357121, *2 (D. Nev.
6 Jan. 26, 2015) (collecting cases). *See id.* First, the complaint must establish that administrative
7 remedies were exhausted under 42 U.S.C. § 405(g) and that the plaintiff filed the application
8 within 60 days after notice of the Social Security Commissioner's final decision. *See id.* Second,
9 the complaint must indicate the judicial district in which the plaintiff resides. *See id.* Third, the
10 complaint must state the nature of the plaintiff's disability and when the plaintiff claims to have
11 become disabled. *See id.* Fourth, the complaint must contain a plain, short, and concise
12 statement identifying the nature of the plaintiff's disagreement with the determination made by
13 the Social Security Administration and show that the plaintiff is entitled to relief. *See id.*

14 Here, Plaintiff's complaint satisfies all four requirements. First, the complaint asserts that
15 Plaintiff applied for supplemental security income benefits, which application was denied.
16 Afterwards, Plaintiff timely requested and participated in a hearing before an administrative law
17 judge (ALJ), who denied Plaintiff's claim on February 1, 2022. The Appeals Council denied
18 review on December 15, 2022, making the ALJ's decision the final decision of the
19 Commissioner. Plaintiff filed an *in forma pauperis* application less than 60 days later. Second,
20 Plaintiff claims to live in the jurisdictional boundaries of this Court. Third, the complaint outlines
21 the nature of Plaintiff's disabilities, and the date Plaintiff became disabled. Fourth, the complaint
22 concisely states Plaintiff's disagreement with the Social Security Administration's determination.
23 Because Plaintiff's complaint meets each of these requirements, it satisfies screening.

24
25 **IT IS THEREFORE ORDERED** that Plaintiff's application to proceed *in forma*
26 *pauperis* (ECF No. 1) is **granted** with the caveat that the fees shall be paid if recovery is made.
27 At this time, Plaintiff shall not be required to pay the filing fee.
28

1 **IT IS FURTHER ORDERED** that Plaintiff is permitted to maintain this action to
2 conclusion without the necessity of prepayment of any additional fees or costs or the giving of
3 security therefor. The Order granting leave to proceed *in forma pauperis* shall not extend to the
4 issuance of subpoenas at government expense.

5 **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to file the
6 complaint (ECF No. 1-1).

7 **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to serve the
8 Commissioner of the Social Security Administration by sending a copy of the summons and
9 complaint by certified mail to: (1) Office of Regional Chief Counsel, Region IX, Social Security
10 Administration, 160 Spear St., Suite 800, San Francisco, California 94105-1545; and (2) the
11 Attorney General of the United States, Department of Justice, 950 Pennsylvania Avenue, N.W.,
12 Washington, D.C. 20530.

13 **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to issue
14 summons to the United States Attorney for the District of Nevada and deliver the summons and
15 Complaint to the U.S. Marshal for service.

16 **IT IS FURTHER ORDERED** that from this point forward, Plaintiff shall serve upon
17 Defendant or, if appearance has been entered by counsel, upon the attorney, a copy of every
18 pleading, motion or other document submitted for consideration by the Court. Plaintiff shall
19 include with the original paper submitted for filing a certificate stating the date that a true and
20 correct copy of the document was personally served or sent by mail to the Defendant or counsel
21 for the Defendant. The Court may disregard any paper received by a judge which has not been
22 filed with the clerk, and any paper received by a judge or the clerk which fails to include a
23 certificate of service.

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25 DATED: February 7, 2023

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DANIEL J. ALBREGTS
UNITED STATES MAGISTRATE JUDGE